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The President

APPLICATION OF DUTIES PROCLAIMED IN CERTAIN TRADE AGREEMENTS TO ARTICLES THE GROWTH, ETC., OF CERTAIN FOREIGN COUNTRIES

THE WHITE HOUSE
Washington, November 16, 1939

The Honorable HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: Pursuant to the authority conferred upon me by the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24), I hereby direct that the duties proclaimed on this date in connection with the trade agreement signed on November 6, 1939 with Venezuela, and all other duties heretofore proclaimed in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934, the trade agreement with Nicaragua signed on March 11, 1936 and the trade agreement with Czechoslovakia signed on March 7, 1938, as amended) entered into under the authority of the said Act, as originally enacted or as extended, shall be applied on and after the effective date of such duties, or, as the case may be, shall continue to be applied on and from the date of this letter, to articles the growth, produce, or manufacture of all foreign countries, except as otherwise hereinafter provided, whether imported directly or indirectly, so long as such duties remain in effect and this direction is not modified.

Such proclaimed duties shall be applied to articles the growth, produce, or manufacture of Cuba in accordance with the provisions of the trade agreement with Cuba signed on August 24, 1934.

Because I find as a fact that the treatment of American commerce by Germany is discriminatory, I direct that such proclaimed duties shall not be applied to products of Germany. Products of territories now under the de facto administrative control of Germany shall be regarded as products of Germany for the purposes of this paragraph.

My letter addressed to you on April 5, 1939,[1] with reference to duties heretofore proclaimed in connection with the trade agreements signed under the authority of the Act of June 12, 1934, is hereby superseded.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 39-4270; Filed, November 17, 1939; 4:07 p. m.]

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

AGRICULTURAL MARKETING SERVICE

NOTICE UNDER PACKERS AND STOCKYARDS ACT[2]

NOVEMBER 20, 1939.

To FRED L. BURKE,
Doing business as North Platte Auction Company, North Platte, Nebr.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b), it has been ascertained by me that the stockyard known as the North Platte Auction Company, at North Platte, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-4286; Filed, November 20, 1939; 12:36 p. m.]

[1] 4 F.R. 1577 DI.
[2] Modifies list posted stockyards 9 CFR 204.1.

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 12—BANKS AND BANKING

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TRUST POWERS OF NATIONAL BANKS

On November 7, 1939, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, That effective November 20, 1939, Regulation F [12 CFR Part 206], Trust Powers of National Banks, be amended in the following respects:

1. At the end of the caption of section 11 [12 CFR 206.11] insert the figure "12" as a designation for a footnote and insert the following footnote at the bottom of the page on which such caption appears:

[12] The requirements of this section shall not be deemed to prohibit the making of any investments or the carrying out of any transactions which are expressly required by the instrument creating the trust or are specifically authorized by court order.
*†

2. After the word "interests" in subsections (a) and (b) of section 11[1] [12 CFR 206.11(a) and (b)], insert the figure "13" as a designation for a footnote and the following footnote at the bottom of the page on which such word appears:

[13] Under recognized principles of sound practice regarding the handling of trust assets, a trustee or other fiduciary should not have any interest, direct or indirect, in the assets of a trust except as a fiduciary; and the requirements of this section contemplate that the national bank will not invest trust funds in the stock or obligations of, or property acquired from, any organization in which officers, directors, or employees of the bank have such an interest as might affect the exercise of the best judgment of the management of the bank in investing trust funds and that the national bank will not sell or transfer trust assets to any organization in which the officers, directors, or employees of the bank have such an interest as might affect the exercise of the best judgment of the management of the bank in selling or transferring trust assets.
*†

3. Strike out the figure "12" designating a footnote at the end of subsection (a) of section 11 [12 CFR.206.11 (a)], together with footnote 12, and change the footnote numbering throughout the remainder of the regulation so as to conform to the above amendment.*†

4. In subsection (a) of section 17[2] [12 CFR.206.17 (a)] and in the footnote 16 thereof, strike out the words "Revenue Act of 1936" and insert in lieu thereof "Internal Revenue Code".*†

[SEAL] L. P. BETHEA,
Assistant Secretary.

[F. R. Doc. 39-4275; Filed, November 18, 1939; 11:19 a. m.]

[1] 1 F.R. 420.
[2] 2 F.R. 2976 DI.
*Sec. 11 (i), 38 Stat. 262, sec. 2, 40 Stat. 968, 46 Stat. 814, sec. 342, 49 Stat. 722, sec. 1, 40 Stat. 1043, 44 Stat. 1224, sec. 24, 48 Stat. 190, secs. 330, 331, 49 Stat. 718, 719, sec. 169, 49 Stat. 1708, secs. 2, 3, 24 Stat. 18; 12 U.S.C. 248 (i), 12 U.S.C. 248 (k) and Sup., 33, 34a, 26 U.S.C., Sup., 169, 12 U.S.C. 30, 31.
†Regulation F, Board of Governors of the Federal Reserve System, as amended effective November 20, 1939.

MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

On November 7, 1939, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, That effective November 20, 1939, Regulation H [12 CFR Part 208], Membership of State Banking Institutions in the Federal Reserve System, be amended to read as follows:

§ 208.0 *Authority for Regulation.* This regulation is based upon and issued pursuant to provisions of section 9 of the Federal Reserve Act and related provisions of law.

§ 208.1 *Definitions.* For the purposes of this regulation—

(a) The term "State bank" means any bank or trust company incorporated under a special or general law of a State or under a general law for the District of Columbia, any mutual savings bank (unless otherwise indicated), and any Morris Plan bank or other incorporated banking institution engaged in similar business.[1]

(b) The term "mutual savings bank" means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers, and in addition thereto includes any other banking institution the capital of which consists of weekly or other time deposits which are segregated from all other deposits and are regarded as capital stock for the purposes of taxation and the declaration of dividends.

(c) The term "Board" means the Board of Governors of the Federal Reserve System.

(d) The term "board of directors" means the governing board of any institution performing the usual functions of a board of directors.

(e) The term "Federal Reserve bank stock" includes the deposit which may be made with a Federal Reserve bank in lieu of a subscription for stock by mutual savings bank which is not permitted to purchase stock in a Federal Reserve bank, unless otherwise indicated.

(f) The terms "capital" and "capital stock" mean common stock, preferred

[1] Under the provisions of section 19 of the Federal Reserve Act, national banks, or banks organized under local laws, located in Alaska or in a dependency or insular possession or any part of the United States outside the continental United States are not required to become members of the Federal Reserve System but may, with the consent of the Board, become members of the System. However, this Regulation H is applicable only to the admission of banks eligible for admission to membership under section 9 of the Federal Reserve Act and does not cover the admission of banks eligible under section 19 of the Act. Any bank desiring to be admitted to the System under the provisions of section 19 should communicate with the Federal Reserve bank with which it desires to do business.

stock, and legally issued capital notes and debentures purchased by the Reconstruction Finance Corporation which may be considered capital and capital stock for purposes of membership in the Federal Reserve System under the provisions of section 9 of the Federal Reserve Act.*† [Sec. 1]

§ 208.2 *Eligibility Requirements.* Under the terms of section 9 of the Federal Reserve Act, as amended, to be eligible for admission to membership in the Federal Reserve System—

(1) A State bank, other than a mutual savings bank, must possess a paid-up, unimpaired[2] capital sufficient to entitle it to become a national banking association in the place where it is situated under the provisions of the National Bank Act, except in the following circumstances, in which case such a bank may be admitted to membership with a lesser capital as indicated:

(A) Any such institution organized prior to June 16, 1933 (the date of the approval of the Banking Act of 1933) situated in a place the population of which does not exceed 3,000 inhabitants and at the time of admission having a capital of not less than $25,000;

(B) Any such institution (whether or not organized prior to June 16, 1933) situated in a place the population of which does not exceed 3,000 inhabitants and which at the time of admission is entitled to the benefits of insurance under section 12B of the Federal Reserve Act and has a capital of not less than $25,000.

(2) A mutual savings bank must possess surplus and undivided profits not less than the amount of capital required for the organization of a national bank in the place where it is situated.

(3) The minimum capital required for the organization of a national bank, referred to hereinbefore in connection with the capital required for admission to membership in the Federal Reserve System, is as follows:

If located in a city or town with a population—

	Minimum capital
Not exceeding 6,000 inhabitants	$50,000
Exceeding 6,000 but not exceeding 50,000 inhabitants	100,000
Exceeding 50,000 inhabitants (except as stated below)	200,000
In an outlying district of a city with a population exceeding 50,000 inhabitants; provided State law permits organization of State banks in such location with a capital of $100,000 or less	100,000

*† [Sec. 2]

§ 208.3 *Insurance of Deposits.* Any State bank becoming a member of the Federal Reserve System after the date of the enactment of the Banking Act of 1935 (August 23, 1935) and which is not at the time an insured bank under the provisions of section 12B of the Federal Reserve Act, will become an insured bank under the provisions of that section on the date upon which it becomes a member of the Federal Reserve System.[3] In the case of an insured bank which is admitted to membership in the Federal Reserve System, the bank will continue to be an insured bank.*† [Sec. 3]

§ 208.4 *Application for Membership*—(a) *State bank, other than a mutual savings bank.* A State bank, other than a mutual savings bank, applying for membership, shall make application on Form 83A to the Board for an amount of capital stock in the Federal Reserve bank of its district equal to six per cent of the paid-up capital stock and surplus of the applying institution.

(b) *Mutual savings bank.* A mutual savings bank applying for membership shall make application on Form 83B to the Board for an amount of capital stock in the Federal Reserve bank of its district equal to six-tenths of one per cent of its total deposit liabilities as shown by the most recent report of examination of such institution preceding its admission to membership, or, if such institution be not permitted by the laws under which it was organized to purchase stock in a Federal Reserve bank, on Form 83C, for permission to deposit with the Federal Reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock.

(c) *Mutual savings bank not authorized to purchase stock of Federal Reserve bank at time of admission.* If a mutual savings bank be admitted to membership on the basis of a deposit of the required amount with the Federal Reserve bank in lieu of payment upon capital stock because the laws under which such bank was organized do not at that time authorize it to purchase stock in the Federal Reserve bank, it shall subscribe on Form 83D for the appropriate amount of stock in the Federal Reserve bank whenever such laws are amended so as to authorize it to purchase stock in a Federal Reserve bank.[4]

(d) *Execution and filing of application.* Each application made under the provisions of this section and the exhibits referred to in the application blank shall be executed and filed, in duplicate, with the Federal Reserve bank of the district in which the applying bank is located.*† [Sec. 4]

§ 208.5. *Approval of Application*—(a) *Matters given special consideration by Board.* In passing upon an application, the following matters will be given special consideration:

(1) The financial history and condition of the applying bank and the general character of its management;

(2) The adequacy of its capital structure and its future earnings prospects;

(3) The convenience and needs of the community to be served by the bank; and

(4) Whether its corporate powers are consistent with the purposes of the Federal Reserve Act.

(b) *Procedure for admission to membership after approval of application.* If an applying bank conforms to all the requirements of the Federal Reserve Act and this regulation and is otherwise qualified for membership, its application will be approved subject to such conditions as may be prescribed pursuant to the provisions of the Federal Reserve Act. When the conditions prescribed have been accepted by the applying bank, it should pay to the Federal Reserve bank of its district one-half of the amount of its subscription and, upon receipt of advice from the Federal Reserve bank as to the required amount,

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[2] Section 345 of the Banking Act of 1935 provides in part that: "If any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock. If any such bank or trust company shall have outstanding any capital notes or debentures of the type which the Reconstruction Finance Corporation is authorized to purchase pursuant to the provisions of section 304 of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, the capital of such bank may be deemed to be unimpaired if the sound value of its assets is not less than its total liabilities, including capital stock, but excluding such capital notes or debentures and any obligations of the bank expressly subordinated thereto."

[3] In the case of a State bank which at the time of its admission to memberhip in the Federal Reserve System is not an insured bank, the Board is required under the provisions of subsections (e) and (g) of section 12B of the Federal Reserve Act to issue a certificate to the Federal Deposit Insurance Corporation to the effect that the bank is a member of the Federal Reserve System and that consideration has been given to the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of section 12B of the Federal Reserve Act.

[4] The Federal Reserve Act provides that, if the laws under which any such savings bank was organized be not amended at the first session of the legislature following the admission of the savings bank to membership so as to authorize mutual savings banks to purchase Federal Reserve bank stock, or if such laws be so amended and the bank fail within six months thereafter to purchase such stock, all of its rights and privileges as a member bank shall be forfeited and its membership in the Federal Reserve System shall be terminated in the manner prescribed in section 9 of the Federal Reserve Act.

one-half of one per cent of its paid-up subscription for each month from the period of the last dividend.[5] The remaining half of the bank's subscription shall be subject to call when deemed necessary by the Board. The bank's membership in the Federal Reserve System shall become effective on the date as of which a certificate of stock of the Federal Reserve bank is issued to it pursuant to its application for membership or, in the case of a mutual savings bank which is not authorized to subscribe for stock, on the date as of which a certificate representing the acceptance of a deposit with the Federal Reserve bank in place of a payment of account of a subscription to stock is issued to it pursuant to its application for membership.*† [Sec. 5]

§ 208.6 *Conditions of Membership*—(a) *Conditions applicable to all institutions applying for membership.* Pursuant to the authority contained in the first paragraph of section 9 of the Federal Reserve Act, which authorizes the Board to permit applying State banks to become members of the Federal Reserve System "subject to the provisions of this Act and to such conditions as it may prescribe pursuant thereto," the Board, except as hereinafter stated, will prescribe the following conditions of membership for each State bank hereafter applying for admission to the Federal Reserve System, and, in addition, such other conditions as may be considered necessary or advisable in the particular case—

1. Such bank at all times shall conduct its business and exercise its powers with due regard to the safety of its depositors, and, except with the permission of the Board of Governors of the Federal Reserve System, such bank shall not cause or permit any change to be made in the general character of its business or in the scope of the corporate powers exercised by it at the time of admission to membership.[6]

2. The net capital and surplus funds of such bank shall be adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities,[7] and its capital [8] shall not be reduced except with the permission of the Board of Governors of the Federal Reserve System.[9]

3. Such bank shall not engage as a business in issuing or selling either directly or indirectly (through affiliated corporations or otherwise) notes, bonds, mortgages, certificates, or other evidences of indebtedness representing real estate loans or participations therein, either with or without a guarantee, indorsement, or other obligation of such bank or an affiliated corporation.[10]

(b) *Conditions applicable to institutions exercising trust powers.* The Board will also prescribe for each trust company or State bank exercising trust powers at the time of its admission to membership the following conditions of membership which are appropriate for institutions exercising trust powers.

4. Such bank shall not invest funds held by it as fiduciary in stock or obligations of, or property acquired from, the bank or its directors, officers, or employees, or their interests, or in stock or obligations of, or property acquired from, affiliates of the bank.[11]

5. Such bank, except as permitted in the case of national banks exercising fiduciary powers, shall not invest collectively funds held by the bank as fiduciary and shall keep the securities and investments of each trust separate from those of all other trusts [12] and separate also from the properties of the bank itself.[13]

6. If funds held by such bank as fiduciary are deposited in its commercial or savings department or otherwise used in the conduct of its business, it shall deposit with its trust department security in the same manner and to the same extent as is required of national banks exercising fiduciary powers.[14]*† [Sec. 6]

§ 208.7 *Powers and restrictions.* Every State bank while a member of the Federal Reserve System—

(a) Shall retain its full charter and statutory rights subject to the provisions of the Federal Reserve Act and other Acts of Congress applicable to member State banks, to the regulations of the Board made pursuant to law, and to the conditions prescribed by the Board and agreed to by such bank prior to its admission;

(b) Shall enjoy all the privileges and observe all the requirements of the Federal Reserve Act and other Acts of Congress applicable to member State banks and of the regulations of the Board made pursuant to law which are applicable to member State banks; and

(c) Shall comply at all times with any and all conditions of membership prescribed by the Board in connection with the admission of such bank to membership in the Federal Reserve System*† [Sec. 7]

§ 208.8 *Establishment or maintenance of branches*—(a) *In general.* Every State bank which is or hereafter becomes a member of the Federal Reserve System is subject to the provisions of section 9 of the Federal Reserve Act relating to the establishment and maintenance of branches in the United States or in a dependency or insular possession thereof or in a foreign country. Under the provisions of section 9, member State banks establishing and operating branches in the United States beyond

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[5] In the case of a mutual savings bank which is not permitted by the laws under which it was organized to purchase stock in a Federal Reserve bank, it shall deposit with the Federal Reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock.

[6] If, after admission of any bank to membership, it should desire to make any change in the general character of its business or in the scope of its corporate powers exercised at the time of admission, it will be necessary for it to obtain the permission of the Board before making any such change.

The acquisition by a bank of the assets of another institution through merger, consolidation, or purchase may result in a change in the character of its assets or the scope of its functions within the meaning of condition numbered 1, and if at any time a member State bank subject to such condition anticipates making any such acquisition a detailed report setting forth all of the facts in connection with the transaction should be made promptly to the Federal Reserve bank of the district in which such bank is located.

[7] If at any time, in the light of all the circumstances, the aggregate amount of the bank's net capital and surplus funds appears to be inadequate, the bank, within such period as shall be deemed by the Board to be reasonable for this purpose, shall increase the amount thereof to an amount which in the judgment of the Board shall be adequate in relation to the bank's aggregate deposit liabilities and other corporate responsibilities.

[8] This applies to capital stock of all classes and to capital notes and debentures legally issued and purchased by the Reconstruction Finance Corporation which, under the Federal Reserve Act, are considered as capital for purposes of membership.

A reduction in capital however, shall not be deemed to be contrary to this provision if, at the same time, the capital is correspondingly increased or a specific reserve in an amount not less than the amount of the capital reduction is set aside to provide for an increase in capital and can be used for no other purpose; provided, of course, the transaction does not violate any provision of applicable laws.

[9] This condition will not be prescribed in connection with the admission of mutual savings banks to membership in the Federal Reserve System.

[10] This condition does not apply to the sale of mortgages covered by insurance under the provisions of the National Housing Act.

[11] Under recognized principles of sound practice regarding the handling of trust assets, a trustee or other fiduciary should not have any interest, direct or indirect, in the assets of a trust except as a fiduciary; and the condition contemplates that a trust institution will not invest trust funds in the stock or obligations of, or property acquired from, any organization in which officers, directors, or employees of the trust institution have such an interest as might affect the exercise of the best judgment of the management of the trust institution in investing trust funds.

The requirements of this condition shall not be deemed to prohibit the making of any investments or the carrying out of any transactions which are expressly required by the instrument creating the trust or are specifically authorized by court order.

[12] This does not prevent a bank from investing the funds of several trusts in a single real estate loan of the kind which could be made by a national bank under the provisions of section 24 of the Federal Reserve Act, as amended, if the bank owns no participation in the loan and has no interest therein except as trustee or other fiduciary.

[13] Requirements relating to collective investment of trust funds by national banks are contained in the Board's Regulation F.

[14] Such requirements applicable to national banks are contained in section 11 (k) of the Federal Reserve Act and the Board's Regulation F issued pursuant to section 11 (k).

In cases where trust funds are fully protected by a statutory preference in all of the assets of the bank over its general creditors, the Board may waive compliance with this condition. However, if compliance be waived in any case, the Board expressly reserves the right to require compliance with the condition if, at any time, it feels that such trust funds are not adequately protected.

the corporate limits of the city, town, or village in which the parent bank is situated must conform to the same terms, conditions, limitations, and restrictions as are applicable to the establishment of branches by national banks under the provisions of section 5155 of the Revised Statutes of the United States relating to the establishment of branches in the United States, except that the approval of any such branches must be obtained from the Board rather than from the Comptroller of the Currency. Under the provisions of section 9, member State banks establishing and operating branches in a dependency or insular possession of the United States or in a foreign country must conform to the terms, conditions, limitations, and restrictions contained in section 25 of the Federal Reserve Act relating to the establishment by national banks of branches in such places. The principal applicable provisions of law have been interpreted as follows:

(b) *Branches in the United States.* 1. Branches established within the corporate limits of the city, town, or village in which the parent bank is situated do not require the approval of the Board.

2. Before a member State bank establishes a branch beyond the corporate limits of the city, town, or village in which it is situated, it must obtain the approval of the Board.

3. Before any nonmember State bank having a branch or branches established after February 25, 1927, beyond the corporate limits of the city, town, or village in which the bank is situated is admitted to membership in the Federal Reserve System, it must obtain the approval of the Board for the retention of such branches; and any provisions contained in this section of this regulation which by their terms relate to the establishment or retention of branches by member State banks are equally applicable to the retention by a nonmember State bank applying for membership and having any branches previously established.

4. A member State bank located in a State which by statute law permits the maintenance of branches within county or greater limits may, with the approval of the Board, establish and operate, without regard to the capital requirements of section 5155 of the Revised Statutes, a seasonal agency in any resort community within the limits of the county in which the main office of such bank is located for the purpose of receiving and paying out deposits, issuing and cashing checks and drafts, and doing business incident thereto, if no bank is located and doing business in the place where the proposed agency is to be located; and any permit issued for the establishment of such an agency shall be revoked upon the opening of a State or national bank in the community where the agency is located.

5. Except as stated in the immediately preceding paragraph, a member State bank which establishes a branch beyond the corporate limits of the city, town, or village in which it is situated must have a paid-in and unimpaired capital stock of not less than $500,000, except that, in a State with a population of less than 1,000,000, and which has no city located therein with a population exceeding 100,000, the capital stock shall be not less than $250,000, and except that, in a State with a population of less than 500,000, and which has no city located therein with a population exceeding 50,000, the capital stock shall be not less than $100,000. In any such case, the aggregate capital stock of the member State bank and its branches shall at no time be less than the aggregate minimum capital stock required by law for the establishment of an equal number of national banking associations situated in the various places where such member State bank and its branches are situated.

6. A member State bank may not establish a branch beyond the corporate limits of the city, town, or village in which it is situated unless such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks.

7. Any member State bank which, on February 25, 1927, had established and was actually operating a branch or branches in conformity with the State law is permitted to retain and operate the same while remaining a member of the Federal Reserve System, regardless of the location of such branch or branches.

8. In order to remain a member of the Federal Reserve System, every member State bank must relinquish any branch or branches established after February 25, 1927, beyond the corporate limits of the city, town, or village in which the parent bank is situated, unless such branch or branches are in conformity with or are brought into conformity with the same terms, conditions, limitations, and restrictions as would be applicable in the case of the establishment of such branches.

9. The removal of a branch from one town to another town constitutes the establishment of a branch in such other town within the meaning of the provisions of the Federal Reserve Act.

(c) *Application for approval of branches in United States.* Any member State bank desiring to establish a branch beyond the corporate limits of the city, town, or village in which it is located and any nonmember State bank applying for membership and desiring to retain any branch established after February 25, 1927, beyond the corporate limits of the city, town, or village in which the bank is situated should submit a request for the approval by the Board of any such branch to the Federal Reserve bank of the district in which the bank is located. Any such request should be accompanied by advice as to the scope of the functions and the character of the business which are or will be performed by the branch and detailed information regarding the policy followed or proposed to be followed with reference to supervision of the branch by the head office; and the bank may be required in any case to furnish additional information which will be helpful to the Board in determining whether to approve such request.

(d) *Foreign branches.* Before a member State bank establishes a branch in a foreign country, or dependency or insular possession of the United States, it must have a capital and surplus of $1,000,000 or more and obtain the approval of the Board.

(e) *Application for approval of foreign branches.* Any member State bank desiring to establish such a branch and any nonmember State bank applying for membership and desiring to retain any such branch established after February 25, 1927, should submit a request for the approval by the Board of any such branch to the Federal Reserve bank of the district in which the bank is located. Any such request should be accompanied by advice as to the scope of the functions and the character of the business which are or will be performed by the branch and detailed information regarding the policy followed or proposed to be followed with reference to supervision of the branch by the head office; and the bank may be required in any case to furnish additional information which will be helpful to the Board in determining whether to approve such request.*†

[Sec. 8]

§ 208.9 *Publication of reports of member banks and their affiliates*[15]—(a) *Reports of member banks.* Each report of condition made by a member State bank, which is required to be made to the Federal Reserve bank of its district as of call dates fixed by the Board of Governors of the Federal Reserve System, shall be published by such member bank within twenty days from the date the call therefor is issued.

The report shall be printed in the newspaper published in the place where

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[15] Under the provisions of section 9 of the Federal Reserve Act, reports of condition of member State banks which, under that section, must be made to the respective Federal Reserve banks on call dates fixed by the Board of Governors of the Federal Reserve System "shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe."

Section 9 also provides that the reports of affiliates of a member State bank which are required by that section to be furnished to the respective Federal Reserve banks "shall be published by the bank under the same conditions as govern its own condition reports." The term "affiliates," as used in this provision of section 9, under the express terms of that section, includes "holding company affiliates as well as other affiliates," but a member State bank is not required to furnish to a Federal Reserve bank the report of an affiliated member bank.

the bank is located or, if there be no newspaper published in the place where the bank is located, then in a newspaper published in the same or in an adjoining county and in general circulation in the place where the bank is located. The term "newspaper", for the purpose of this regulation, means a publication with a general circulation published not less frequently than once a week, one of the primary functions of which is the dissemination of news of general interest.

The copy of the report for the use of the printer for publication should be prepared on Form 105e. The published information shall agree in every respect with that shown on the face of the condition report rendered to the Federal Reserve bank, except that any item for which no amount is reported may be omitted in the published statement. All signatures shall be the same in the published statement as in the original report submitted to the Federal Reserve bank, but the signatures may be typewritten or otherwise copied on the report for publication.

A copy of the printed report shall be submitted to the Federal Reserve bank attached to the certificate on Form 105e.

(b) *Reports of affiliates.*[16] Each report of an affiliate of a member State bank, including a holding company affiliate, shall be published at the same time and in the same newspaper as the affiliated bank's own condition report submitted to the Federal Reserve bank, unless an extension of time for submission of the report of the affiliate has been granted under authority of the Board of Governors of the Federal Reserve System. When such extension of time has been granted, the report of the affiliate must be submitted and published before the expiration of such extended period in the same newspaper as the condition report of the bank was published.

The copy of the report for the use of the printer for publication should be prepared on Form 220a. The published information shall agree in every respect with that shown on the face of the report of the affiliate furnished to the Federal Reserve bank by the affiliated member bank, except that any item appearing under the caption "Financial relations with bank" against which the word "none" appears on the report furnished to the Federal Reserve bank may be omitted in the published statement of the affiliate: *Provided,* That if the word "none" is shown against all of the items appearing under such caption in the report furnished to the Federal Reserve bank the caption "Financial relations with bank" shall appear in the published statement followed by the word "none." All signatures shall be the same in the published statement as in the original report submitted to the Federal Reserve bank, but the signatures may be typewritten or otherwise copied on the report for publication.

A copy of the printed report shall be submitted to the Federal Reserve bank attached to the certificate on Form 220a.*† [Sec. 9]

§ 208.10 *Voluntary withdrawal from Federal Reserve System*—(a) *General.* Any State bank desiring to withdraw from membership in a Federal Reserve bank may do so after six months' written notice has been filed with the Board;[17] and the Board, in its discretion, may waive such six months' notice in any individual case and may permit such bank to withdraw from membership in a Federal Reserve bank, subject to such conditions as the Board may prescribe, prior to the expiration of six months from the date of the written notice of its intention to withdraw.

(b) *Notice of intention of withdrawal.* Any State bank desiring to withdraw from membership in a Federal Reserve bank should signify its intention to do so in a letter addressed to the Board and mailed to the Federal Reserve bank of which such bank is a member. Such letter should state clearly the reason for the bank's desire to withdraw. Any such bank desiring to withdraw from membership prior to the expiration of six months from the date of written notice of its intention to withdraw should so state in the letter signifying its intention to withdraw and should state the reason for its desire to withdraw prior to the expiration of six months.

Every notice of intention of a bank to withdraw from membership in the Federal Reserve System and every application for the waiver of such notice should be accompanied by a certified copy of a resolution duly adopted by the board of directors of such bank authorizing the withdrawal of such bank from membership in the Federal Reserve System and authorizing a certain officer or certain officers of such bank to file such notice or application, to surrender for cancellation the Federal Reserve bank stock held by such bank, to receive and receipt for any moneys or other property due to such bank from the Federal Reserve bank and to do such other things as may be necessary to effect the withdrawal of such bank from membership in the Federal Reserve System.

Notice of intention to withdraw or application for waiver of six months' notice of intention to withdraw by any bank which is in the hands of a conservator or other State official acting in a capacity similar to that of a conservator should be accompanied by advice from the conservator or other such State official that he joins in such notice or application.

(c) *Time and method of effecting actual withdrawal.* Upon the expiration of six months after notice of intention to withdraw or upon the waiving of such six months' notice by the Board, such bank may surrender its stock and its certificate of membership to the Federal Reserve bank and request that same be cancelled and that all amounts due to it from the Federal Reserve bank be refunded.[18] Unless this is done within two months after the expiration of such six months' notice or after the waiver of such notice by the Board, or unless the bank requests and the Board grants an extension of time, such bank will be presumed to have abandoned its intention of withdrawing from membership and will not be permitted to withdraw without again giving six months' written notice or obtaining the waiver of such notice.

(d) *Withdrawal of notice.*—Any bank which has given notice of its intention to withdraw from membership in a Federal Reserve bank may withdraw such notice at any time before its stock has been canceled and upon doing so may remain a member of the Federal Reserve System. The notice rescinding the former notice should be accompanied by a certified copy of an appropriate resolution duly adopted by the board of directors of the bank.*† [Sec. 10]

§ 208.11 *Board forms.* All forms referred to in this regulation and all such forms as they may be amended from time

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[16] Section 21 of the Federal Reserve Act, among other things, provides as follows: "Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board or Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank." Therefore, of course, in any case where the Board of Governors waives the filing of a report of an affiliate of a member State bank, no publication of a report of such affiliate is required.

[17] Under specific provisions of section 9 of the Federal Reserve Act, however, no Federal Reserve bank shall, except upon express authority of the Board, cancel within the same calendar year more than twenty-five per cent of its capital stock for the purpose of effecting voluntary withdrawals during that year. All applications for voluntary withdrawals are required by the law to be dealt with in the order in which they are filed with the Board.

[18] A bank's withdrawal from membership in the Federal Reserve System is effective on the date on which the Federal Reserve bank stock held by it is duly canceled. Until such stock has been canceled, such bank remains a member of the Federal Reserve System, is entitled to all the privileges of membership, and is required to comply with all provisions of law and all regulations of the Board pertaining to member banks and with all conditions of membership applicable to it. Upon the cancellation of such stock, all rights and privileges of such bank as a member bank shall terminate.

Upon the cancellation of such stock, and after due provision has been made for any indebtedness due or to become due to the Federal Reserve bank, such bank shall be entitled to a refund of its cash paid subscription with interest at the rate of one-half of one per cent per month from the date of last dividend, the amount refunded in no event to exceed the book value of the stock at that time, and shall likewise be entitled to the repayment of deposits and of any other balance due from the Federal Reserve bank.

to time shall be a part of this regulation*† [Sec. 11]

[SEAL] L. P. BETHEA,
Assistant Secretary.

[F. R. Doc. 39-4274; Filed, November 18, 1939; 11:19 a. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

RATING AND CERTIFICATION OF CIVILIAN SCHOOLS GIVING INSTRUCTION IN AIRCRAFT, ETC.

EFFECTIVE DATE AMENDED

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 14th day of November 1939.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby orders that Amendment No. 31 of the Civil Air Regulations,[1] providing for the rating and certification of civilian schools giving instruction in aircraft and aircraft engine mechanics, is amended by striking the phrase "Effective January 1, 1940" and inserting in lieu thereof the phrase "Effective upon the further order of the Authority."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-4285; Filed, November 20, 1939; 12:24 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4954]

INCOME TAX

EXCLUSION OF INCOME ATTRIBUTABLE TO DISCHARGE OF INDEBTEDNESS; REDUCTION OF BASIS

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 101[2] [Part 9, Subpart H, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code (53 Stat. Part 1) by Treasury Decision 4885,[3] approved February 11, 1939 [Part 465, Subpart B, of such Title 26], to section 215 of the Revenue Act of 1939 (Public, No. 155, 76th Cong., 1st Sess.), approved June 29, 1939, such regulations are amended as follows:

(1) Article 22 (a)-14 [section 9.22 (a)-14, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code, is amended by adding after the first paragraph thereof the following paragraph:

"For exclusion from gross income of income attributable to discharge of indebtedness of a corporation in an unsound financial condition, see article 22 (b) (9)-1 [section 9.22 (b) (9)-1]."

(2) Article 22 (a)-18 [section 9.22 (a)-18, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code, is amended by adding at the end thereof the following new paragraph:

"For exclusion from gross income of income attributable to discharge of indebtedness of a corporation in an unsound financial condition, see article 22 (b) (9)-1 [section 9.22 (b) (9)-1.]"

(3) Immediately preceding section 22 (c), relating to inventories, which appears immediately preceding article 22 (c)-1 [section 9.22 (c)-1, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code, insert the following:

Sections 215 (a) and (c) of the Revenue Act of 1939 provide:

SEC. 215. DISCHARGE OF INDEBTEDNESS.

(a) INCOME FROM DISCHARGE OF INDEBTEDNESS. Section 22 (b) of the Internal Revenue Code (relating to exclusions from gross income) is amended by adding at the end thereof the following new paragraph:

(9) INCOME FROM DISCHARGE OF INDEBTEDNESS. In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer or for which the taxpayer is liable evidenced by a security (as hereinafter in this paragraph defined) if—

(A) it is established to the satisfaction of the Commissioner, or

(B) it is certified to the Commissioner by any Federal agency authorized to make loans on behalf of the United States to such corporation or by any Federal agency authorized to exercise regulatory power over such corporation,

that at the time of such discharge the taxpayer was in an unsound financial condition, and if the taxpayer makes and files at the time of filing the return, in such manner as the Commissioner, with the approval of the Secretary, by regulations prescribes, its consent to the regulations prescribed under section 113 (b) (3) then in effect. In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation, in existence on June 1, 1939. This paragraph shall not apply to any discharge occurring before the date of the enactment of the Revenue Act of 1939, or in a taxable year beginning after December 31, 1942.

* * * * * *

(c) TAXABLE YEARS TO WHICH APPLICABLE. The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

"ART. 22 (b) (9)-1. [Sec. 9.22 (b) (9)-1, Title 26, Code of Federal Regulations, 1939 Sup.] *Income from discharge of indebtedness.* Section 22 (b) (9) provides a method whereby a corporation may elect to have excluded from its gross income the amount of income attributable to a discharge, within the taxable year, of its indebtedness or of indebtedness for which it is liable as, for example, in the case of a debt arising from an assumption of liability of another corporation. To be entitled to the benefits of the provisions of section 22 (b) (9) a corporation must (1) file with its return for the taxable year a consent to the provisions of the regulations, in effect at the time of the filing of the return, prescribed under section 113 (b) (3) (see articles 113 (b) (3)-1 and 113 (b) (3)-2 [sections 9.113 (b) (3)-1 and 9.113 (b) (3)-2 of such Title 26], relating to adjustment of basis), and (2) establish that it was in an unsound financial condition immediately preceding the discharge of the indebtedness.

"The existence of an unsound financial condition, for the purposes of section 22 (b) (9), may be established (1) by satisfying the Commissioner of such condition upon a presentation to him of all facts pertinent to the financial condition of the corporation or (2) by having presented to the Commissioner a certification of such condition by any Federal agency (*e. g.*, the Reconstruction Finance Corporation) authorized to make loans to such taxpayer on behalf of the United States, or by any Federal agency (*e.g.*, the Interstate Commerce Commission) authorized to exercise regulatory power over the taxpayer. Such a certification will be deemed to be conclusive upon the Commissioner. The certification should accompany the return.

"A corporation may be in an unsound financial condition, within the meaning of section 22 (b) (9) and this article, even though the fair market value of its assets exceeds its liabilities or it is able to meet its current liabilities as they mature. Thus, highly indicative (but not conclusive) of an unsound financial condition would be the fact that bonds of the taxpayer are selling in a free market at prices substantially below their issue price and below the market price of similar issues of similar businesses.

"As used in this article 'indebtedness' means indebtedness evidenced by a bond,

*Secs. 208.1 to 208.11, inclusive, issued under the authority contained in sec. 11 (1), 38 Stat. 262, sec. 3, 40 Stat. 232, 42 Stat. 821, sec. 17 (b), 48 Stat. 185, sec. 9, 44 Stat. 1229, 45 Stat. 492, 46 Stat. 170, sec. 2, 46 Stat. 251, sec. 1, 46 Stat. 814, sec. 5, 48 Stat. 164, sec. 2, 48 Stat. 971, sec. 202, 49 Stat. 704, sec. 310 (b), 49 Stat. 710, sec. 320, 49 Stat. 713, sec. 338, 49 Stat. 721, sec. 12B (e), (g), 49 Stat. 687, 688, 703, secs. 325, 345, 49 Stat. 715, 722; 12 U.S.C. 248 (i), 12 U.S.C. 321-338 and Sup., 12 U.S.C., Sup. 264 (e), (g), 486, 51b-1.

†In secs. 208.1 to 208.11, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in Regulation H, Board of Governors of the Federal Reserve System, effective November 20, 1939.

[1] 4 F.R. 4474 DI.

[2] 4 F.R. 616, 700, 802 DI.

[3] 4 F.R. 879 DI.

debenture, note, or certificate, or other evidence of indebtedness, in existence on June 1, 1939, and issued by either the taxpayer corporation or any other corporation. Thus, for example, if a corporation obtains a discharge of its indebtedness represented only by open account book entries, section 22 (b) (9) and this article are inapplicable. If, however, a corporation obtains a discharge of its liability (evidenced by its writing) arising from an assumption of a debt of an individual or a discharge of its liability (whether or not evidenced by a writing) arising from the assumption of the indebtedness of another corporation, section 22 (b) (9) and this article are applicable.

"If as a result of the discharge of indebtedness there remains unamortized premium or unamortized discount, the amount of the income attributable to such premium is to be excluded from gross income and the amount of the deduction attributable to such discount shall be disallowed as a deduction. The unamortized premium and unamortized discount, as the case may be, is in each instance to be computed as of the first day of the taxable year in which the discharge of indebtedness occurred.

"The provisions of section 22 (b) (9) and this article are inapplicable in the case of any discharge occurring—(1) in a taxable year beginning before January 1, 1939; (2) before June 29, 1939; (3) in a taxable year beginning after December 31, 1942; or (4) in any proceeding under section 77B of the Bankruptcy Act of 1898, as amended, or under chapter X, XI, or XV of such Act.

"ART. 22 (b) (9)–2. [Section 9.22 (b) (9)–2, Title 26, Code of Federal Regulations, 1939 Sup.] *Making and filing of consent.* A consent to have the basis of its property adjusted in accordance with the provisions of the regulations, in effect at the time of filing of the return, prescribed under section 113 (b) (3) (see articles 113 (b) (3)–1 and 113 (b) (3)–2) [sections 9.113 (b) (3)–1 and 9.113 (b) (3)–2 of such Title 26] shall be made by or on behalf of the taxpayer corporation in duplicate on Form 982, in accordance with these regulations and the instructions on the form or issued therewith. The original and duplicate shall be filed with the return."

(4) Immediately following article 113 (b)–3 [section 9.113 (b)–3, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code, add the following:

Sections 215 (b) and (c) of the Revenue Act of 1939 provide:

(b) BASIS REDUCED. Section 113 (b) of the Internal Revenue Code (relating to the adjusted basis of property) is amended by adding at the end thereof the following new paragraph:

"(3) DISCHARGE OF INDEBTEDNESS. Where in the case of a corporation any amount is excluded from gross income under section 22 (b) (9) on account of the discharge of indebtedness the whole or a part of the amount so excluded from gross income shall be applied in reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under section 22 (b) (9)) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the Commissioner with the approval of the Secretary) in effect at the time of the filing of the consent by the taxpayer referred to in section 22 (b) (9). The reduction shall be made as of the first day of the taxable year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began."

(c) TAXABLE YEARS TO WHICH APPLICABLE. The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

"ART. 113 (b) (3)–1. [Section 113 (b) (3)–1, Title 26, Code of Federal Regulations, 1939 Sup.] *Adjusted basis: Discharge of corporate indebtedness. General rule.* In addition to the adjustments provided in section 113 (b) (1) and article 113 (b)–1 [section 9.113 (b)–1 of such Title 26], which are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in any case in which there shall have been an exclusion from gross income under section 22 (b) (9) on account of the discharge of indebtedness of a corporation during the taxable year. Such further adjustment shall, except as otherwise provided in article 113 (b) (3)–2 [section 9.113 (b) (3)–2 of such Title 26], be made in the following manner and order:

"(1) In the case of indebtedness incurred to purchase specific property (other than inventory or notes or accounts receivable), whether or not a lien is placed against such property securing the payment of all or part of such indebtedness, which indebtedness shall have been discharged, the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by an amount equal to the amount excluded from gross income under section 22 (b) (9) and attributable to the discharge of the indebtedness so incurred with respect to such property;

"(2) In the case of specific property (other than inventory or notes or accounts receivable) against which, at the time of the discharge of the indebtedness, there is a lien (other than a lien securing indebtedness incurred to purchase such property) the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by an amount equal to the amount excluded from gross income under section 22 (b) (9) and attributable to the discharge of the indebtedness secured by such lien;

"(3) Any excess of the total amount excluded from gross income under section 22 (b) (9) over the sum of the adjustments made under (1) and (2) shall next be applied to reduce the cost or other basis of the property of the debtor (other than inventory and notes and accounts receivable, but including property covered by (1) and (2)) as follows: The cost or other basis of each unit of property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such proportion of such excess as the adjusted basis (without reference to this article) of each such unit of property bears to the sum of adjusted bases (without reference to this article) of all the property of the debtor other than inventory and notes and accounts receivable; and

"(4) Any excess of the total amount excluded from gross income under section 22 (b) (9) over the sum of the adjustments made under (1), (2), and (3) shall next be applied to reduce the cost or other basis of inventory and notes and accounts receivable, as follows: The cost or other basis of inventory or notes or accounts receivable, as the case may be, shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such proportion of such excess as the adjusted basis of inventory, notes receivable or accounts receivable, as the case may be, bears to the sum of the adjusted bases of such inventory and notes and accounts receivable.

"For the purposes of this article—

"(A) Except where the context otherwise requires, property means all of the debtor's property, other than money;

"(B) The phrase 'indebtedness incurred to purchase' includes (i) indebtedness for money borrowed and applied in the purchase of property and (ii) an existing indebtedness secured by a lien against the property which the debtor, as purchaser of such property, has assumed to pay;

"(C) The phrase 'amount excluded from gross income under section 22 (b) (9)' means the amount of income excluded under that section reduced by any deduction disallowed under that section for unamortized discount;

"(D) Adjustments to basis shall be made—

"(i) in the case of property owned on the first day of the taxable year, as of that day;

"(ii) in the case of property acquired after the first day of the taxable year, as of the day so acquired—

"regardless of the time such property was subsequently sold, exchanged, or otherwise disposed of by the taxpayer;

"(E) Whenever a discharge of indebtedness is accomplished by a transfer of the taxpayer's property in kind the difference between the amount of the obligation discharged and the fair market value of the property transferred is the

amount which may be applied in reduction of basis.

"(F) Regardless of the amount excluded by the taxpayer from its gross income under section 22 (b) (9) and so stated on Form 982, the maximum amount by which basis may be reduced in respect of the discharge of any indebtedness is the amount of income resulting from the discharge of such indebtedness.

"*Example (1).* On January 1, 1939, the N Corporation owned an office building, which it sold in March 1939. In June 1939, it purchased a factory building. In October 1939, the N Corporation bought in its outstanding bonds at less than their face value. Assuming that there is a proper exclusion from gross income under section 22 (b) (9), the basis of each building shall be adjusted under section 113 (b) (3) for the taxable year 1939. (But see article 113 (b) (3)–2 [section 9.113 (b) (3)–2, Title 26, Code of Federal Regulations, 1939 Sup.].)

"*Example (2).* The M Corporation has outstanding an issue of A bonds which it had sold at a premium and an issue of B bonds which it had sold at a discount. In July 1939, the M Corporation purchased such outstanding bonds for less than face value. The amount of income attributable to the discharge of the A bonds is $1,000 and the amount of unamortized premium is $200. The amount of income attributable to the discharge of the B bonds is $1,000 and the amount of unamortized discount is $50.

"If the M Corporation under section 22 (b) (9) elects to have excluded from gross income the amount of income attributable to the discharge of both bond issues, the total reduction in basis of the property of the M Corporation shall not exceed $2,150. If the M Corporation elects only with respect to the A bonds, the total reduction in basis shall not exceed $1,200 (or $950 if the election is with respect to the B bonds). If the M Corporation excludes only an amount of $500 with respect to the A bonds, the total reduction in basis may nevertheless be $1,200 (or $950 if the exclusion is with respect to the B bonds).

"ART. 113 (b) (3)–2. [Section 9.113 (b) (3)–2, Title 26, Code of Federal Regulations, 1939 Sup.] *Adjusted basis: Discharge of indebtdness. Special cases.* Article 113 (b) (3)–1 [section 9.113 (b) (3)–1 of such Title 26] prescribes the general rule to be followed in adjusting basis of property where there is a proper exclusion from gross income under section 22 (b) (9). The taxpayer may, however, have the basis of its property adjusted in a manner different from that set forth in article 113 (b) (3)–1 [section 9.113 (b) (3)–1 of such Title 26] upon a proper showing to the satisfaction of the Commissioner. Variations from such general rule may, for example, involve adjusting the basis of only part of the taxpayer's property or adjusting the basis of all the taxpayer's property, according to a fixed allocation.

"A request for variations from the general rule prescribed in article 113 (b) (3)–1 [section 9.113 (b) (3)–1 of such Title 26] should be filed by the taxpayer with its return for the taxable year in which the discharge of indebtedness has occurred. Agreement between the taxpayer and the Commissioner as to any variations from such general rule shall be effected only by a closing agreement entered into under the provisions of section 3760 of the Internal Revenue Code. If no agreement is reached between the taxpayer and the Commissioner as to variations from the general rule prescribed in article 113 (b) (3)–1 [section 9.113 (b) (3)–1 of such Title 26] then the consent filed on Form 982 shall be deemed to be a consent to the application of such general rule and such general rule shall prevail in the determination of the basis of the taxpayer's property, unless the taxpayer specifically states on such form that it does not consent to the application of the general rule."

(5) The second sentence of article 113 (b)–3 [section 9.113 (b)–3, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code, is amended to read as follows:

"In addition, whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, as defined in section 113 (b) (2) (A), the adjustments indicated in articles 113 (b)–2, 113 (b) (3)–1, and 113 (b) (3)–2 [sections 9.113 (b)–2, 9.113 (b) (3)–1, and 9.113 (b) (3)–2 of such Title 26] shall also be made, whenever necessary, after first making in respect of such substituted basis a proper adjustment of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor."

(This Treasury decision is prescribed pursuant to the following sections of law: Sections 22 and 113 of the Internal Revenue Code (53 Stat. Part 1); section 215 of the Revenue Act of 1939 (Public, No. 155, 76th Cong., 1st Sess.); and section 62 of the Internal Revenue Code (53 Stat. Part. 1).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, November 16, 1939,

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39–4280; Filed, November 20, 1939; 10:09 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 56, ARIZONA NO. 2, REDUCED

Departmental order of February 4, 1919, withdrawing certain lands for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following described land in Arizona which is within the Coconino National Forest:

Gila and Salt River Meridian

T. 15 N., R. 5 E.,
W½SW¼SW¼SE¼ and SE¼SE¼SW¼ Sec. 17, 15 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

NOVEMBER 3, 1939.

[F. R. Doc. 39–4271; Filed, November 18, 1939; 9:30 a. m.]

TITLE 45—PUBLIC WELFARE

NATIONAL YOUTH ADMINISTRATION

[Administrative Order No. 6]

PART 402—REGULATIONS RELATING TO THE PART-TIME EMPLOYMENT OF OUT-OF-SCHOOL YOUTH ON PROJECTS OF THE NATIONAL YOUTH ADMINISTRATION

By virtue of and pursuant to the authority vested in the Administrator of the National Youth Administration by the Emergency Relief Appropriation Act of 1939, approved June 30, 1939, the following amendments to Administrative Order No. 5,[1] dated September 15, 1939, are prescribed:

Section 402.5 shall be amended to read as follows:

§ 402.5 *Maximum hours.* Hours of project work for youth employees shall not exceed 8 hours per day, 40 hours per week and 70 hours per month, except in the case of:

"(a) *Exemption by Administrator.* Such projects, portions of projects, or areas as the National Youth Administrator, or his authorized representative, may hereafter exempt;

"(b) *Emergencies.* An emergency involving the public welfare or to protect work already done on a project when so authorized by the State Youth Administrator;

"(c) *Making up lost time.* Making up time lost due to conditions which in the judgment of the State Youth Administrator warrant authorizing youth employees to make up lost time; or

"(d) *Resident projects.* Resident projects, to which youth employees shall be assigned upon the basis of a 30-day service status."

Section 402.6 shall be rescinded upon the effective date of this order.

The foregoing amendments shall become effective at the beginning of pay

[1] 4 F.R. 4047 DI.

roll periods on and after December 1, 1939.

AUBREY WILLIAMS,
Administrator.

Approved November 17, 1939.

PAUL V. MCNUTT,
Federal Security Administrator.

[F. R. Doc. 39-4269; Filed, November 17, 1939; 1:22 p. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 4]

SUBCHAPTER A — DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

Subsections (b) and (c) of Section 5.84 [1] *Combat Areas* are amended to read as follows:

"(b) No clearance shall be granted to any American or foreign vessel (watercraft or aircraft), bound to a foreign port, while having on board any American citizen, whether as a passenger or member of the crew, if such vessel (watercraft or aircraft) during the course of its voyage, will proceed into or through any combat area, unless such voyage is authorized by rules and regulations prescribed under authority of the Neutrality Act of 1939.

"(c) Final clearance shall not be granted to any foreign vessel (watercraft or aircraft), bound to a foreign port, in a combat area, or proceeding into or through such area, or to any vessel of a belligerent state, wherever bound, until the master has filed with the collector a list of all of the members of the crew of the vessel, together with the nationality of each member, which list shall be sworn to by the master."

Section 5.85 [1] *Belligerent vessels carrying American citizens as passengers* is amended to read as follows:

"§ 5.85 *Belligerent vessels carrying American citizens.* No clearance shall be granted to any vessel (watercraft or aircraft) of a belligerent state while having on board any citizen of the United States, whether as a passenger or member of the crew, except in accordance with the rules and regulations prescribed under authority of the Neutrality Act of 1939."

(Sec. 161 R.S.; 5 U.S.C. 22)

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

NOVEMBER 17, 1939.

[F. R. Doc. 39-4273; Filed, November 18, 1939; 9:31 a. m.]

[1] 4 F.R. 4500 DI.

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 3666]

IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Decided November 14, 1939

Application for authority to construct for experimental service in the transportation of petroleum products five tank-car tanks fabricated by fusion welding granted.

Victor Willoughby for American Car and Foundry Company.

SUPPLEMENTAL REPORT OF THE COMMISSION [1]

ALLDREDGE, *Commissioner:*

In our several prior reports we granted upon applications therein considered authority to build and use for experimental transportation of dangerous articles other than explosives a total of 867 tank cars equipped with tanks fabricated by fusion welding but otherwise conforming to ICC shipping container specifications.

By application of the American Car and Foundry Company dated June 1, 1939, recommended November 6, 1939, by the mechanical division, Association of American Railroads, for our approval, we are asked to authorize the construction and use of five additional cars of ICC shipping container specification 105A300 type, meeting current requirements, except that tanks will be fabricated by fusion welding instead of forge welding.

In support of previous application for authority for test cars for petroleum products, granted November 3, 1939, the following appears:

Applicant states that tanks will have capacity of 11,000 gallons, all features of design of cars have been passed upon as satisfactory by the Association, construction will conform to all effective requirements, and of a total of seven hundred sixty-seven fusion-welded cars previously authorized, three hundred twenty-one are in service. Applicant further states that service trials and periodical inspections show all cars in use to be in good condition after 7,673 trips over a total of 5,953,698 miles, an increase of over a thousand trips and a million miles of safe transportation since our next previous authorization dated March 13, 1939. The Bureau of Explosives and the Association recommend favorable action on the application.

Upon further consideration of the record and in the light of added facts disclosed in the instant application, the construction and use of five (5) additional tanks of tank cars in accordance with current ICC specification 105A300 is forthwith authorized, provided that tanks may be fusion welded instead of forge welded, and must be constructed and marked in compliance with proposed revised ICC specification 105A300W, filed as an exhibit at the hearing herein and referred to in our prior reports; cars to be used in further service tests in the transportation of petroleum products.

In all other respects the regulations for transportation of petroleum products herein referred to are and shall remain in full force and effect.

Owners or operators of cars authorized herein, shall make semi-annual inspection of the tanks and report their condition to the same parties as receive reports required by ICC specification 105A300.

By the Commission, Commissioner Alldredge.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 39-4276; Filed, November 18, 1939; 11:53 a. m.]

[1] Under the authority of section 17 (6) of the Interstate Commerce Commission, the above entitled matter was referred by the Commission to Commissioner Alldredge for consideration and disposition.

[No. 3666]

IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

ORDER GRANTING APPLICATION

Present: J. Haden Alldredge, Commissioner, to whom the above-entitled matter has been assigned for action thereon.

Regulations for the transportation of explosives and other dangerous articles being under further consideration;

And it appearing, That application of the General Chemical Company and American Car and Foundry Company, accompanied by drawings and specifications, recommended by the Tank Car Committee, and concurred in by the Bureau of Explosives, Association of American Railroads, requests permission to construct and operate in experimental rail service in the transportation of ninety-five percent nitric acid four (4) tank cars with riveted aluminum alloy tanks, to be constructed in accordance with shipping container specification 103C–AL embodied herein, including requirements of the Association reproduced as an appendix to the specification;

It further appearing, That the Tank Car Committee, in recommending approval of the application, submits that the proposed specification will provide aluminum-alloy tank-car tanks similar to designs of tanks conforming to requirements of ICC shipping container specification 103C, except that, in place of nitric acid resisting chrome steel, suitable and serviceable aluminum alloys will be used, and that use thereof is in accordance with the best-known practicable means for securing safety in transit;

It further appearing, That there are in use at the present time 169 tank cars with tanks constructed of aluminum, 93 riveted and 76 of welded construction, for commodities of nondangerous character in transportation, and not within the terms of the aforesaid regulations;

And it further appearing, That reports are required to be made to the Bureau of Explosives and the Secretary, mechanical division, Association of American Railroads, before any car is placed in service, certifying to compliance with the specification, and further periodical reports to same parties on the condition of tanks and safety valves:

It is ordered, That the pending application be granted and the construction and use be and is hereby authorized of four (4) tank cars, with tanks in accordance with the following shipping container specification 103C–AL, including appendix thereof, subject to current requirements for the safe transportation of ninety-five percent nitric acid, and safety appliances and carrier rules for the interchange of tank cars:

Shipping container specification 103C–AL

Riveted Aluminum Alloy, Heat Treated, Tanks to be Mounted on or to Form Part of a Car

[Effective]

1. (a) *Type.* Tanks built under this specification must by cylindrical, with heads dished convex outward, and must have at least one expansion dome with manhole, and such other external projections as are prescribed herein.

(b) *Lagging.* Not a specification requirement. The tank shell and dome must be covered by a steel jacket not less than ¼" thickness, extending upward from running boards and spaced 2" from tank shell thus providing tank shell the protection against external damage.

2. (a) *Bursting pressure.*—The calculated bursting pressure, as determined by the following formula, must be at least 300 lbs. per square inch. Castings and attachments must be designed for the same bursting pressure.

(b) Formula for determining bursting pressure:

$$\frac{S \times 2t \times E}{d} = \text{Bursting Pressure}$$

S=Ultimate tensile strength in lbs. per sq. in.

t=Thickness in inches thinnest plate.

E=Seam efficiency.

d=Inside diameter in inches.

3. (a) *Material.* All plates for tank and expansion dome must be made of aluminum alloy, heat treated, in accordance with Aluminum Co. of America's requirements for 61–ST alloy, having a minimum yield of 35,000 lbs. and a minimum tensile of 42,000 lbs. per sq. in.

(b) All rivets must be of aluminum alloy having a minimum shearing value when driven in the tank of 20,000 lbs. per sq. in. They must be heated in pyrometrically controlled furnace and be driven hot.

(c) Aluminum alloy castings must conform to Federal specification for aluminum-base-alloys; sand castings QQ–A–601, dated June 8, 1938, Table I, Class #3, heat treatment #2, Table III, being Aluminum Co. of America's alloy 356–T6.

(d) Aluminum alloy forgings heat treated, must conform to Aluminum Co. of America's requirements for 61–ST alloy.

4. *Thickness and widths of plates.* The minimum thickness of plates, including thickness of each plate at rivet seams, must be as follows:

Inside diameter of tanks	Bottom sheets	Shell sheets	Expansion-dome sheets	Tank heads	Expansion-dome heads (inch)
78 inches	*In.* 5/8	*In.* 5/8	*In.* 5/8	*In.* 5/8	Cast aluminum alloy 356–T6.

The minimum width of bottom sheet of tank must be 60 inches, measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal seam, including overlaps, above the cradle.

5. *Dishing of tank heads.* Tank heads must be of approved contour.

6. (a) *Riveting.* For computing rivet areas, the effective diameter of a driven rivet is the diameter of its reamed hole, which hole must in no case exceed nominal diameter of rivet by more than 1/16 inch. Use of rivets less than 5/8 inch nominal diameter not permissible on any part of tank or attachments. All rivets must be driven hot.

(b) All seams formed in the manufacture of the tank and expansion dome proper and the attachment of the expansion dome to the tank must be at least double riveted. Dome head, manhole ring and sump must be single or double riveted. Riveted seams and joints must be made metal to metal without interposition of other material. The efficiency of multiple riveted seams must be at least 70% of the strength of the thinnest plate. The efficiency of single riveted seams must be at least 35% of the strength of the thinnest plate.

(c) The manner in which tank is supported on and securely attached to the car structure must be approved.

7. *Preparation for calking.* The edges of plates at all riveted seams must be beveled so that the angle of the calking edges will be between 70 to 80 degrees with the flat surface of the plate. The extreme calking edge distance, measured from center line of rivet hole, must be at least one and one-half times the diameter of the hole and not more than that distance plus ¼ inch.

8. *Calking.* All seams, including those formed by attachment of expansion dome and other external projections, must be calked both inside and outside, except that inside calking of the seam formed by attachment of expansion dome to tank is not required when the opening in the tank shell is not cut out to the full diameter of the dome. All rivet heads on inside of tank must be calked. Split calking prohibited.

9. (a) *Expansion Dome.* The expansion dome must have a capacity, measured from the inside top of shell of tank to the inside top of dome or bottom of any vent pipe projecting inside dome, of at least 1 per cent of the total capacity of the tank and dome combined, and must not exceed 36 inches inside diameter.

(b) The opening in manhole ring must be at least 18 inches in diameter. The opening in the tank shell within the dome must be at least 29 inches in diameter, and when the inside diameter of the dome exceeds 29 inches, the opening in the tank shell may be cut out to a diameter sufficiently greater than that of the dome to permit calking of tank shell to the base of the dome. When the inside diameter of the dome exceeds 30 inches and the shell of tank is cut out as provided to permit calking, the tank shell at this point must be adequately reinforced.

(c) A dome head and manhole ring in one piece may be used instead of a dished plate dome head.

(d) The dome head must be dished convex outward.

10. (a) *Closures for manholes.* The manhole cover must be of approved type and designed to provide a secure closure of the manhole.

(b) Manhole rings and covers must be made of the metal prescribed by paragraph 3.

(c) Manhole ring and cover must be of cast, rolled, forged, or pressed aluminum alloy.

(d) All joints between manhole covers and their seats must be made tight against leakage of vapor and liquid by use of gaskets of suitable material.

11. *Gauging, venting, loading and discharging, and air inlet devices extending through dome of tanks.* These devices when installed must be tightly closed as prescribed in paragraph 12 and be of approved design. Protective housing of approved design covering all these devices must be installed.

12. *Gauging, venting, loading and discharging, and air inlet devices.* These devices when installed must be tightly closed with approved caps, plugs, valves, or other suitable fittings. Provision must be made for closing pipe connections of valves.

13. *Bottom discharge outlets.* Bottom discharge outlet is prohibited, but tank may be equipped with a sump.

14. (a) *Safety valves.* The tank must be equipped with a safety valve at least 2 inches inside diameter mounted on top of expansion dome.

(b) One safety valve must be provided for each tank.

(c) The safety valve must be set to open at a pressure of 60 pounds per square inch. (For tolerances see paragraph 18).

15. *Fixtures, reinforcements and attachments not otherwise specified.* All attachments to tank and dome must be riveted in place and calked to comply with conditions prescribed in paragraphs 6 and 8.

16. *Plugs for openings.* All plugs must be solid, made of materials prescribed in paragraph 3 with standard pipe thread and taper, and when in contact with lading must be of a length which will screw at least six threads inside the face of fitting or tank. Plugs when inserted from the outside of tank heads must have the letter "S" at least ⅜ inch in size stamped with steel stamp or cast on the outside surface to indicate the plug is solid. Plugs when inserted from the inside are identified by appearance of the plug on the outside of the tank as being solid—therefore, no mark required.

17. *Test of tanks.* Each tank must be tested, before being put into service and also at intervals as prescribed in paragraph 19, by completely filling tank and dome with water, or other liquid having similar viscosity, of a temperature which must not exceed 100 degrees F. during the test, and applying a pressure of 60 pounds per square inch. Tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress. All rivets and closures, except safety valves, must be in place while test is made.

18. *Tests of safety valves.* Valve must be tested before being put into service by attaching to an air line and applying pressure. The valve must open at the pressure prescribed in paragraph 14 (c), with a tolerance of plus or minus 3 pounds.

19. *Retests of tanks and safety valves.* Tanks and safety valves must be retested as prescribed for original tests in paragraphs 17 and 18, except that an acid may be used for filling tank and dome when testing tanks which have not been in service more than 12 years. The first retest must be conducted within four years after the original test, and subsequent retests at four-year intervals up to 12 years of service, thereafter at two year intervals up to 20 years of service, and annually after 20 years of service. Tanks in service over 12 years must be internally inspected for defects which would make leakage or failure probable during transit and must be tested with water only. Tanks must also be retested before being returned to service after extensive riveting, calking or other repairs. Reports must be rendered as prescribed in paragraph 21.

20. *Marking.* Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(a) ICC–103C–AL in letters and figures at least ⅜ inch high, stamped plainly and permanently into the metal near the center of one outside head of the tank. This mark must also be stenciled on the jacket, in letters and figures at least 2 inches high.

(b) Initials of manufacturer and date of original test of tank in letters and figures at least ⅜ inch high, stamped plainly and permanently into the metal of the tank immediately below the stamped mark specified in paragraph 20 (a). These initials and date must also be stenciled on the jacket, in letters and figures at least 2 inches high.

(c) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the jacket.

(d) Date on which the safety valve was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the jacket.

(e) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only," or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, in letters at least 2 inches high, immediately above the stenciled mark specified in paragraph 20 (a).

21. *Reports.* Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the secretary, mechanical division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of alterations of the tank or equipment therefor from original design, a similar report must be rendered to the same parties. For the periodic retests of tank and safety valves, other than above mentioned, reports must be rendered to the Bureau of Explosives and to car owner. In addition to the foregoing, owners or operators of cars where construction is authorized herein shall make semi-annual inspection of the tanks and report their condition to the above parties.

Appendix

A A R Requirements

AAR–5. *Dishing of tank heads.* Tank heads must be dished for pressure on concave side and to main inside radius not exceeding 10 feet. The inside knuckle radius must be not less than 3¾ inches.

AAR–6. (a) *Anchorage.* The minimum shearing and bearing values of rivets connecting longitudinal anchor plates to tank and underframe shall be as follows:

Connection of single piece anchor plates to tank: (A single piece anchor is one having longitudinal anchor plate on each side of the center sill construction.)

Shearing area of aluminum rivets, based on 20,000 minimum shear value, not less than 66 square inches.

Bearing area of aluminum rivets, based on 54,000 minimum bearing value, not less than 43 square inches.

Connection of a single piece anchor plate to underframe.

Shearing area of steel rivets, not less than 15 square inches.

Bearing area of steel rivets using aluminum anchorage plate with minimum bearing value of 54,000, not less than 22 square inches.

The shearing and bearing values of rivets securing anchor plates to underframe shall not exceed 70 percent of the shearing and bearing values, respectively, of those used for connection of anchor plates to tank. The maximum diameter of a driven aluminum rivet in the anchor must not exceed its nominal diameter plus 1/32 inch. Head block anchorage prohibited.

(b) *Tank bands.* Each tank shall have at least two bands, one at each bolster, or other approved means of equal strength and security. If more than the prescribed two bands are used, their location is optional.

All tank bands shall be in direct contact with outside of main shell.

The cross sectional area of the tank band shall at no place be less than the equivalent of one square inch of steel. A threaded end 1⅜ inch or more in diameter, with body consisting of a flat band 2 inch by ½ inch, or equivalent section, or round 1⅛ inch in diameter, will be accepted as meeting this requirement.

(c) *Bolster slabbing.* Contact bearing area shall be not less than 20 square feet.

Not less than 50 per cent of the above prescribed minimum of number of square feet of bolster slabbing bearing area shall be outside the zone of center sill construction.

AAR–14. *Safety valves.* Safety valve must be of approved design.

AAR–20. *Marking.* For all other markings see Fig. 1, AAR Specifications.

AR–21. *Certificate of construction.* For form of certificate of construction see section F, page 6, AAR Specifications.

AAR–22. *Car structure.* For car structure see section H, page 8, AAR Specifications.

It is further ordered, That tank cars constructed under this order are hereby authorized for use on and after the date of approval and publication hereof, or until further order by the Commission;

And it is further ordered, That copies of this order be served upon all the respondents herein, and that notice to the public be given by posting in the office of the Secretary of the Commission at Washington, D. C.

Dated at Washington, D. C. this 14th day of November, 1939.

By the Commission, Commissioner Alldredge.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 39–4277; Filed, November 18, 1939; 11:53 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 475–FD]

IN THE MATTER OF THE APPLICATION OF ELLISON & WHITE COAL COMPANY FOR EXEMPTION

ORDER OF DENIAL OF APPLICATION FOR EXEMPTION

The above-named applicant for exemption and counsel for the Bituminous Coal Division having on November 7, 1939, stipulated that applicant's commerce in coal directly affects interstate commerce in coal, that applicant waives any and all rights to a hearing pursuant to Section 4–A of the Bituminous Coal Act of 1937, and that applicant consents to the entry of an order denying the above-entitled application for exemption,

It is ordered, That the above-entitled application for exemption be and the same hereby is denied.

Dated, November 18, 1939.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 39–4281; Filed, November 20, 1939; 11:00 a. m.]

[Docket No. 595–FD]

IN THE MATTER OF THE APPLICATION OF THE HILLS CREEK COAL COMPANY FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

In accordance with the stipulation entered into by and between counsel for the Bituminous Coal Division and counsel for the applicant, dated November 7, 1939, the Director consents to the withdrawal of the above-entitled application for exemption upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent application for exemption, except upon a showing of a material change of facts, and to that effect,

It is so ordered.

Dated, November 18, 1939.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 39–4282; Filed, November 20, 1939; 11:00 a. m.]

[Docket No. 962–FD]

IN THE MATTER OF THE APPLICATION OF JAMES W. MAHAFFEY COAL COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, PURSUANT TO SECTION 4–A OF SAID ACT

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the applicant, the director consents to the withdrawal of the above-entitled application for exemption upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent application for exemption, except upon a showing of a material change of facts, and to that effect.

It is so ordered.

Dated, November 18, 1939.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 39–4283; Filed, November 20, 1939; 11:00 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that a Special Certificate for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 is issued to the employer listed below effective November 21, 1939, until March 19, 1940, subject to the following terms and limited to the number of learners indicated opposite the employer's name:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under this Certificate is limited to the following occupations, learning periods and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under this Certificate is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour but in no case less than 22½¢ per hour.

(3) This Special Certificate is issued on representations by the employer that (a) experienced stitching machine operators are not available and (b) that he is actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment.

(4) Under this Special Certificate, no learner shall be employed at a sub-minimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

(5) This Special Certificate is issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations, Part 522, as amended. For fifteen days following the publication of this notice, the Administrator will receive detailed written objections as provided for in said Section 522.5 (b). Such Special Certificate may be canceled as of the date of issuance and if so canceled, reimbursement of all persons employed under such Certificate must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

Name and address of firm	Product	Number of learners
Moyer Manufacturing Co., 18 North Walnut Street, Youngstown, Ohio.	Work clothing	15

Signed at Washington, D. C., this 20th day of November 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39–4287; Filed, November 20, 1939; 12:47 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective November 21, 1939, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the em-

ployers that experienced stitching machine operators are not available.

(4) Any one of these Special Certificates shall be cancelled as of the date of its issue if found that experienced workers were available when the Certificate was issued and shall be cancelled prospectively or as of the date of violation if found that any of its terms have been violated or that skilled workers have become available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of stitching machine operators employed in the plant may be employed under any of these Certificates, unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Martin Mfg. Mills, Inc., 220 West Church Street, Salem, Illinois (5 learners), athletic shorts.

Westbury Frocks, Inc., 59 South Street, Patchogue, Long Island, New York (5 learners), dresses.

The Moyer Mfg. Co., 18 North Walnut Street, Youngstown, Ohio (5 learners), work clothing.

Signed at Washington, D. C., this 20th day of November 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4288; Filed, November 20, 1939; 12:47 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE KNITTED WEAR INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Knitted Wear Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective November 21, 1939, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Knitted Wear Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has not been previously employed for more than eight (8) weeks in the aggregate during the preceding three (3) years upon sewing machine or knitting machine operations, respectively.

(2) The employment of learners under these Certificates is limited to the operation of sewing machines and knitting machines and for eight (8) weeks for any one learner. During this period, no learner may be paid at a rate less than 22½¢ per hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rate if in excess of 22½¢ per hour but in no event less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced operators are not available.

(4) These Special Certificates may be canceled as of the date of their issuance if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that experienced workers have become available. No learner may be employed under these Certificates if hired when an experienced worker was available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of sewing machine and knitting machine operators employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Ashland Knitting Mills, Ashland, Pennsylvania, cotton knitted underwear.

Claybrooke Knitting Mills, Pottstown, Pennsylvania (1 learner), polo shirts.

Gilbert Knitting Co., Inc., Little Falls, New York, sweaters and fleece sweatshirts.

Globe Knitting Works, Grand Rapids, Michigan, underwear.

Intermountain Knitting Mills, Inc., Ogden, Utah (5 learners), knitted sportswear.

Quality Knitting Co., Inc., Stowe, Pennsylvania, rayon and cotton underwear.

Musgrove Knitting Company, Pittsfield, Massachusetts (5 learners), cotton knitted underwear.

Stratford Knitting Mills, Linfield, Pennsylvania (5 learners), knitted undergarments.

United Underwear Mill, Boyertown, Pennsylvania (4 learners), cotton knitted underwear.

Vogue Knitting Company, Womelsdorf, Pennsylvania (3 learners), knitted underwear.

Signed at Washington, D. C., this 20th day of November 1939.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 39-4289; Filed, November 20, 1939; 12:47 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-138]

IN THE MATTER OF COLORADO-INTERSTATE GAS COMPANY

ORDER VACATING ORDER OF SUSPENSION

NOVEMBER 16, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

It appearing to the Commission that:

(a) On September 27, 1939,[1] the Commission by its order suspended certain increased rates for natural gas supplied by the Colorado-Interstate Gas Company to the Colorado-Wyoming Gas Company, which were proposed to be made effective on September 28, 1939, and fixed October 30, 1939, as the date for public hearing concerning the lawfulness of said proposed increased rates;

(b) On October 20, 1939, the Commission, acting pursuant to the request of the Colorado-Interstate Gas Company, postponed said hearing to November 20, 1939;

(c) On October 26, 1939, the Colorado-Interstate Gas Company filed with the Commission an Application for Rehearing and Stay of Order of September 27, 1939, praying:

(1) That the Commission grant respondent a statutory rehearing in respect of said order of September 27, 1939, and conduct what will in effect be the first hearing in respect to the matter set forth therein;

(2) Upon such rehearing the Commission abrogate and set aside the order and grant respondent such other relief as is necessary and appropriate;

(3) That the Commission forthwith stay its order pending such rehearing;

(d) On March 14, 1939, the Commission, on its own motion, ordered that an investigation of the Canadian River Gas Company, Colorado-Interstate Gas Company, and Colorado-Wyoming Gas Company (Docket No. G-124) be instituted for the purpose of enabling the Commission:

(1) To determine with respect to each of said companies whether in connection with any transportation or sale of natural gas subject to the jurisdiction of this Commission any rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices, or contracts affecting such rates,

[1] 4 F.R. 4105 DI.

charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential; and

(2) If the Commission shall find that any such rates, charges, or classifications, rules, regulations, practices, or contracts are unjust, unreasonable, unduly discriminatory, or preferential, to determine and fix by appropriate order or orders just, reasonable, and non-discriminatory rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and enforced;

and said investigation is now pending and is expected to be completed in the near future;

(e) The rates and charges for natural gas supplied by Colorado-Interstate Gas Company to Colorado-Wyoming Gas Company being under investigation in the proceeding instituted by said order of the Commission dated March 14, 1939, to determine the just and reasonable charges for such natural gas and fix the same by order, it will not, under such circumstances, be inconsistent with the public interest to vacate the Commission's order of suspension dated September 27, 1939;

The Commission orders that:

The Commission's order of September 27, 1939, suspending said increased rates for natural gas supplied by the Colorado-Interstate Gas Company to the Colorado-Wyoming Gas Company, proposed to be made effective on September 28, 1939, and providing for a public hearing concerning the lawfulness of the said proposed increased rates, and the commission's order of October 20, 1939, postponing the date of said public hearing to November 20, 1939, be and the same are hereby vacated.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 39-4272; Filed, November 18, 1939; 9:30 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of November, A. D. 1939.

[File No. 2-3598]

IN THE MATTER OF OKLAHOMA HOTEL BUILDING COMPANY

ORDER FIXING EFFECTIVE DATE OF AMENDMENTS TO REGISTRATION STATEMENT AND DECLARING STATEMENT AMENDED IN ACCORDANCE WITH STOP ORDER

This matter coming on to be heard by the Commission upon the registration statement filed by Oklahoma Hotel Building Company of Oklahoma City, Oklahoma, on February 11, 1938, and upon amendments to said registration statement filed by said registrant on February 28 and March 25, 1938, and July 26 and October 16, 1939, and the Commission having duly considered the matter and now being fully advised in the premises

It is declared, That said registration statement has been amended in accordance with the Stop Order issued on February 24, 1939.

It is ordered, That said Stop Order shall cease to be effective,

It is further ordered, That the amendments filed March 25, 1938, and July 26 and October 16, 1939, shall become effective on November 16, 1939.

Attention is directed to Rules 800 (b) and 970 of the General Rules and Regulations, relating, respectively, to the requirements for the filing of twenty copies of the actual prospectus used and statement of price at which securities were actually offered.

Attention shall be directed to the provisions of Section 23, Securities Act of 1933, which follow: "Neither the fact that the registration statement for a security has been filed or is in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing provisions of this section."

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,

[F. R. Doc. 39-4278; Filed, November 18, 1939; 12:00 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November 1939.

[File Nos. 7-443 to 7-445]

IN THE MATTER OF APPLICATIONS BY THE NEW YORK CURB EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO GATINEAU POWER COMPANY FIRST MORTGAGE BONDS, 3¾% SERIES A, DUE APRIL 1, 1969; GREEN MOUNTAIN POWER CORPORATION FIRST AND REFUNDING MORTGAGE BONDS, 3¾% SERIES, DUE DECEMBER 1, 1963; PACIFIC LIGHTING CORPORATION $5 CUMULATIVE DIVIDEND PREFERRED STOCK WITHOUT PAR VALUE

ORDER SETTING HEARING ON APPLICATIONS TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned securities; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, December 20, 1939, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Willis E. Monty, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-4279; Filed, November 18, 1939; 12:00 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the Ctiy of Washington, D. C., on the 18th day of November, A. D. 1939.

[File No. 56-66]

IN THE MATTER OF NEW ENGLAND POWER ASSOCIATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Section 12 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 8, 1939, at 10:00 o'clock in the forenoon of that day, at the Shawmutt National Bank Building, 82 Devonshire Street, Boston, Massachusetts. On such day the clerk in room 426 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Adrian C. Humphreys or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted

to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 28, 1939.

The matter concerned herewith is in regard to an application filed pursuant to Section 12 of the Public Utility Holding Company Act of 1935 and Rule U–12D–1 promulgated thereunder, by New England Power Association, a registered holding company and parent of Massachusetts Utilities Associates, with regard to the proposed sale by Massachusetts Utilities Associates of 1,368 shares of capital stock of Gardner Gas, Fuel and Light Company, a subsidiary of Massachusetts Utilities Associates, for $1.

It is stated that Gardner Gas, Fuel and Light Company is engaged in the manufacture, sale, and distribution of gas in the city of Gardner, Massachusetts; also, that Gardner Gas, Fuel and Light Company has 1400 shares of $100 par value capital stock outstanding.

It is further stated that under the terms of the proposed sale, Massachusetts Utilities Associates is to cancel the entire indebtedness owed to it by Gardner Gas, Fuel and Light Company, which it is stated amounted to $388,427.12 on September 30, 1939, including accrued interest of $90,727.12; and to pay the fees and expenses of the proposed sale, which is estimated will not exceed $500; that the proposed purchaser, Harold E. Greenwood, is not affiliated with New England Power Association or any other public utility or holding company; and that no other offers for the sale of such stock of Gardner Gas, Fuel and Light Company have been made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc 39–4284; Filed, November 20, 1939; 11:06 a. m.]